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SUBJECT: AHMET GUVENER: PROTESTANT CHURCH LEADER ACQUITTED, BUT LATER ZONING REVERSAL CLOUDS ISSUE

REF: ANKARA 001717

1. (SBU) SUMMARY: A Diyarbakir court acquitted Protestant church leader Ahmet Guvener on May 12 based on the latest constitutional amendments accepted by the Turkish Parliament. Guvener faced charges of operating a church in a building authorized to be constructed solely as a house, not as a place of worship. Local authorities subsequently denied the church's zoning application, leaving its legal status in doubt. END SUMMARY.

GOT INSIGHTS

2. (SBU) On May 11, consulate personnel met with an official from the Diyarbakir Governorate to discuss Diyarbakir Protestant Church leader Ahmet Guvener's upcoming court hearing. The Diyarbakir 3rd Lower Court charged Guvener with operating a church in a building authorized to be constructed solely as a house, not as a place of worship. Previously, on April 2, 2003, the Diyarbakir 2nd Felony Court acquitted Guvener of similar charges.

3. (SBU) The Diyarbakir Governorate official expressed doubts about Guvener's sincerity. The official noted that in 1991, Guvener, a Turkomen Alevi, converted to Christianity. In spite of the doubts, the Governorate official stated that there had been no action taken to close the Diyarbakir Protestant Church. Considering the importance of EU harmonization laws and Turkey's image as a country of religious freedom, the Governorate chose to be tolerant and wait for the outcome of the court hearing, the official noted.

4. (SBU) On May 11, consulate personnel met again with Ahmet Guvener to discuss the court hearing. Guvener stated that he applied for building permission in 2001 for a house because at that time there was no provision in the zoning law for a place of worship other than a mosque. Subsequently, in December 2003, the law changed to allow for zoning for a "ibadethane" or place of worship (REFTEL). Guvener explained that he wanted to reapply, but that the new law required a 2,500 square meter area for a place of worship and he did not believe that the church would be able to meet this requirement. The church leader added that, up until the passage of the December 2003 law, the Diyarbakir Protestant Church had been compliant in every way possible. Guvener asserted that there were no known complaints from residents or businesses in the church neighborhood and that the congregation enjoyed a positive relationship with the local neighborhood.

COURT CASE - CRIMINAL ACQUITTAL

5. (SBU) On May 12, consulate personnel attended Guvener's court hearing at the Diyarbakir 3rd Lower Court. Foreign spectators crowded the small courtroom, including members of the South African Church Union, the Compass Direct Middle East Bureau Chief (a Christian press organization), a German resident of Turkish descent who is a member of the congregation, and the American citizen Diyarbakir Protestant Church pastor. Guvener's lawyer showed up ten minutes late for the 0900 scheduled court hearing, accompanied by a representative from a Dutch human rights organization. The hearing commenced about 0920 after a further delay while the Compass Direct Bureau Chief sought, and was granted, permission to take photographs.

6. (SBU) The Diyarbakir 3rd Lower Court acquitted Guvener based on the latest Constitutional amendments accepted by the Turkish Parliament. Article 90 of the Turkish Constitution accepts the superiority of the international law over the domestic law. The Public Prosecutor cited article 9 of the European Human Rights Accord, which provides that individuals have the right to practice their religion individually or collectively, openly, by teaching, practicing, meditating, or persuading others in the direction of their religion. The Public Prosecutor found this international law to take precedence over the domestic law under which Guvener had been charged, and therefore said Guvener's actions no longer constituted a crime.

ZONING OBSTACLES RE-APPEAR

17. (SBU) Subsequently, on May 17, Guvener's church was notified that its December 23, 2003 request for rezoning as a place of worship had been denied by a Diyarbakir committee which protects cultural and historic sites because of the need for places of worship to be at least 2, 500 square meters in size. (Note: Guvener's church is located opposite an historical Syriac Christian church's entrance, which is itself hidden by a large perimeter wall. From the street it is not apparent that a Syriac Christian site is located there. Nevertheless, the committee has at times maintained that they are trying to protect the "integrity" of that Syriac site by scrutinizing the zoning of surrounding buildings. End Note.)

18. (SBU) COMMENT: The Diyarbakir Governorate official was very forthcoming about Guvener's case when consulate personnel met with him. The official discussed the details quite openly and demonstrated a clear understanding that the outcome of the hearing would be seen by observers in both the EU and the US as an indication of the state of religious tolerance in southeast Turkey.

18. (SBU) The atmosphere in the Diyarbakir 3rd Lower Court was more like a press event than a court hearing, and the presiding judge and prosecutor demonstrated unusual tolerance. The judge waited patiently despite the late arrival of Guvener's defense attorney. Neither the prosecutor nor the judge placed any restriction on the Compass Direct Bureau Chief who wandered freely around the courtroom taking photographs throughout the entire hearing. GoT officials in Diyarbakir initially seemed to have grasped the international significance of this hearing, however their subsequent zoning denial based on a law which would also exclude use of the bulk of the province's existing mosques as places of worship, were it to be uniformly applied, leaves the church's status once again unclear. This subsequent zoning decision also draws into question GoT commitment to implementation of the EU reform package law meant to clear the way for free and open worship by all faiths in Turkey. END COMMENT.

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